

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERNEST ELLIOTT

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

CASE NO. 1:21-CV-128

HON. ROBERT J. JONKER

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court has reviewed Magistrate Judge Green’s Report and Recommendation in this matter (ECF No. 26) and Plaintiff’s Objections to it. (ECF No. 27). The Magistrate Judge recommends affirming the Commissioner’s decision on the basis that the ALJ’s decision is supported by substantial evidence. In his Objections, Plaintiff argues the ALJ committed numerous reversible errors. For the reasons set forth below, the Court adopts the Magistrate Judge’s recommendation.

Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE, § 3070.2, at 451 (3d ed. 2014). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981).

The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff's objections. The Court finds the Magistrate Judge's Report and Recommendation, which recommends affirm the decision of the ALJ, factually sound and legally correct. Plaintiff objects on numerous grounds, including: (1) the ALJ did not properly consider the opinions of Plaintiff's treating physician; (2) the ALJ lacked substantial evidence to support his residual function capacity determination; (3) the ALJ made improper credibility determinations regarding plaintiff; (4) the ALJ failed to properly consider Plaintiff's obesity; (5) the ALJ failed to follow accurate vocation expert testimony; and (6) that the structure of the Social Security administration is unconstitutional.

The Magistrate Judge carefully and thoroughly considered Plaintiff's claims and determined that substantial evidence supports the ALJ's findings and decision. In his Objections, Plaintiff primarily reiterates and expands arguments he made in his earlier briefing. In fact, Plaintiff's objections acknowledges as much, stating that "Plaintiff made the above observations and arguments in his previous Briefs." (ECF No. 27, PageID.45) The Magistrate Judge carefully considered and properly rejected these arguments. Nothing in Plaintiff's Objections changes the fundamental analysis. After de novo review, this Court determines that substantial evidence supports the ALJ's decision, for precisely the reasons detailed in the Report and Recommendation.

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (ECF No. 26) is **APPROVED AND ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's Objections (ECF No. 27) are **OVERRULED**.

IT IS FURTHER ORDERED that the Commissioner's decision is **AFFIRMED**.

A separate Judgment shall issue.

Dated: September 6, 2022

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE